

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MARVIN ALBERTO VIVAS-MORALES,)
)
 Plaintiff,)
)
 v.) Civil Action No. 03-312 (Erie)
)
UNITED STATES OF AMERICA,)
)
 Defendant.)

**DEFENDANT'S MOTION TO EXTEND TIME TO
FILE ITS PRETRIAL STATEMENT/SUMMARY JUDGMENT MOTION**

AND NOW, comes Defendant, United States of America, by its attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Rebecca Ross Haywood, an Assistant United States Attorney for said District, and pursuant to Fed. R. Civ. P. 6(b)(1), files the following Motion to Extend Time to File Its Pretrial Statement/Summary Judgment Motion Pending this Honorable Court's ruling on Defendant's Motion to Dismiss for Failure to Prosecute. In support thereof, the Defendant United States avers as follows:

1. Defendant's Pretrial Statement and/or Motion for Summary Judgment is currently due on July 5, 2005.

2. Defendant, however, has filed a Motion to Dismiss for Failure to Prosecute pursuant to Fed. R. Civ. P. 41 based on Plaintiff's failure to comply with the discovery process and/or his failure to respond and file documents (including a pretrial statement) as ordered by the Court.

3. As a result, Defendant respectfully requests that the Court grant Defendant an extension of time to file its pretrial statement and/or motion for summary judgment pending resolution of Defendant's Motion to Dismiss for failure to prosecute.

WHEREFORE, the Defendant respectfully requests that this Honorable Court grant Defendant an extension of time to file its pretrial statement and/or motion for summary judgment pending resolution of Defendant's Motion to Dismiss for failure to prosecute.

A proposed order is attached.

Respectfully submitted,

MARY BETH BUCHANAN
UNITED STATES ATTORNEY

By: /s/ REBECCA ROSS HAYWOOD
Assistant U.S. Attorney
Western District of Pa.
700 Grant St.
Suite 400
Pittsburgh, PA 15219
(412) 644-3500
Pa. Bar No. 74579

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UNITED STATES OF AMERICA,)
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 Defendant.)

ORDER OF COURT

AND NOW, this _____ day of _____, 2005, upon
consideration of Defendant's Motion to Extend Time to File its
Pretrial Statement/Summary Judgment Motion,

IT IS HEREBY ORDERED that said Motion is **GRANTED**, and
Defendant's Pretrial Statement and/or a Motion for Summary
Judgment, shall be filed within thirty days after this Court's
ruling on the Defendant's Motion to Dismiss for Failure to
Prosecute, if such a filing is necessary.

_____, J.

cc: parties of record

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of July, 2005, I have served a copy of the within Motion via first-class mail, upon the following:

Marvin Alberto Vivas-Morales
84818
York County Prison
3400 Concord Rd.
York, PA 17402

/s/ REBECCA ROSS HAYWOOD
Assistant U.S. Attorney